

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION
USDJ SDWV I.C. BERGER

JOHN ANTHONY CASTRO,
Plaintiff,
vs.
SECRETARY OF STATE
ANDREW WARNER, and
DONALD JOHN TRUMP,
Defendants.
WEST VIRGINIA REPUBLICAN PARTY,
Intervenor.



2:23-cv-00598

PRO SE AMICUS CURIAE

Addendum

Pro Se Received a copy of this courts order (document 66 filed 10-31-23) on 11-02-23

PRO SE IS AN ELIGIBLE VOTER A NATURAL BORN CITIZEN OF THE UNITED STATES AND CURRENTLY A RESIDENT OF THE STATE OF WEST VIRGINIA.

As such PRO SE has the 9th right of choice to exercise the 1st right to redress.

PRO SE hereby exercises both to aid and help the court in this matter.

First the Court Erred in it's conversion to motions for Summary Judgment. A class action conversion would be utmost appropriate type, as this matter affects all eligible voters in the United States.

Further District Courts issue Nationwide Injunctions and nothing prohibits them from a Nationwide Mandamus to the chief election officer of the States, D.C. and Territories. So a conversion to a request for mandamus would also be more appropriate

State of New Mexico
FIRST JUDICIAL DISTRICT COURT

Case No. D-101-CV-2022-00473 STATE OF NEW MEXICO,.. v COUY GRIFFIN,
FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

II

The “Stop the Steal” Movement to Block the Lawful Transfer of Presidential Power.

11. On November 7, 2020, the major news networks projected Joe Biden as the winner of the 2020 presidential election. PX 12 at 21 (June 2021 Senate Report).

12. President Trump did not accept the election results and pursued multiple avenues to remain in power through legal and extra-legal means. 8/16/22 Tr. 96:19-21 (Kleinfeld).

The Trump campaign and its supporters filed and lost dozens of frivolous lawsuits challenging the election result based on alleged voter fraud. PX 12 at 21 (June 2021 Senate Report).

A federal judge called one such case “a historic and profound abuse of the judicial process” meant to “undermind the People’s faith in our democracy.” King v. Whitmer, 556 F. Supp. 3d 680, 685 89 (1D. Mich. 2021) (sanctioning attorneys)

14. As their strategy failed in the courts, Trump's team turned their focus to January 6, 2021, the date on which a joint session of Congress (with Vice President Mike Pence serving as presiding officer) would convene to certify the results of the election as required by the 'Twelfth Amendment and the Electoral

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Count Act, 3 U.S.C. § 15. PX 12 at 22 (June 2021 Senate Report). They ultimately devised and carried out an extra-legal scheme to pressure Vice President Pence—both privately and publicly—to take the unconstitutional action of refusing to count electoral votes from several states during the January 6 proceedings. See *Eastman v. Thompson*, 2022 WL 894256, at *1-+7 (C.D. Cal. Mar. 28, 2022); see also PX 12 at 1,22 (June 2021 Senate Report) (describing the process for objections and the goal of disrupting the electoral vote count). A federal judge has held it is “more likely than not” these efforts amounted to criminal obstruction of the Joint Session of Congress on January 6, 2021 in violation of 18 USC. § 1512(c)(2). *Eastman*, 2022 WL 894256, at #20-23.

“announced Tuesday night that
he will seek the Republican presidential nomination in 2024.

“In order to make America great and glorious again,
I am tonight announcing my candidacy for president of the United States,”
Trump told a crowd gathered at Mar-a-Lago,
his waterfront estate in Florida, where his campaign will be headquartered.”

By Gabby Orr, Kristen Holmes and Veronica Stracqualursi, CNN
Updated 1:25 PM EST, Wed November 16, 2022

**makes this an interstate commerce matter within this Court's Jurisdiction
also this matter is within this Court's and all other Article Courts and State Courts
JUDICIAL POWER OF SUA SPONTE.**

This should have been stopped by Friday November 18, 2022

W.V Code §61-3-24. Obtaining money, property and services by false pretenses; disposing of property to defraud creditors; penalties.

(a)(1) **If a person obtains from another by any false pretense, token or representation,
with intent to defraud, any money, goods or other property
which may be the subject of larceny;
(3) Such person is guilty of larceny.
If the value of the money, goods or other property
is \$1,000 or more, such person is guilty of a felony,**

Asking for Campaign Donations with full knowledge of actions and Section 3 of the 14th Amendment,

ARTICLE 1: INCITEMENT OF INSURRECTION

**Resolved, the Donald John Trump, President of the United States,
is impeached for high crimes and misdemeanors ...**

**Further, section 3 of the 14th Amendment to the Constitution
prohibits any person who has "engaged in insurrection or rebellion against"
the United States from "hold[ing] and office ... under the United States.'**

**In his conduct while President of the United States
— and in violation of his constitutional oath faithfully**

**to execute the office of President of the United States and, to the best of his ability, preserve, provide, protect, and
defend the Constitution of the United States and in violation of his constitutional duty to take care that the laws be
faithfully executed**

**— Donald John Trump engaged in high Crimes and Misdemeanors
by inciting violence against the Government of the United States, in that:**

**On January 6, 2021, pursuant to the 12th Amendment to the Constitution of the United States,
the Vice President of the United States, the House of Representatives, and the Senate
met at the United States Capitol for a Joint Session of Congress
to count the votes of the Electoral College.
In the months preceding the Joint Session,**

**President Trump repeatedly issued false statements asserting that the Presidential election results were the product of
widespread fraud and should not be accepted by the American people**

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or certified by State or Federal officials.

Shortly before the Joint Session commenced, President Trump, addressed a crowd at the Ellipse in Washington, D.C.

There, he reiterated false claims that "we won this election, and we won it by a landslide."

He also willfully made statements that, in context, encouraged — and foreseeably resulted in — lawless action at the Capitol,

such as: "if you don't fight like hell you're not going to have a country anymore."

Thus incited by President Trump, members of the crowd he had addressed, in an attempt to, among other objectives, interfere with the Joint Session's solemn constitutional duty to certify the results of the 2020 Presidential election,

unlawfully breached and vandalized the Capitol, injured and killed law enforcement personnel, menaced Members of Congress, the Vice President, and Congressional personnel, and engaged in other violent, deadly, destructive and seditious acts.

President Trump's conduct on January 6, 2021, followed his prior efforts to subvert and obstruct the certification of the results of the 2020 Presidential election. Those prior efforts included a phone call on January 2, 2021, during which President Trump urged the secretary of state of Georgia, Brad Raffensperger, to "find" enough votes to overturn the Georgia Presidential election results and threatened Secretary Raffensperger if he failed to do so.

STATE OF MINNESOTA IN SUPREME COURT No. _____

PETITION PURSUANT TO MINN. STAT. § 204B.44 TO CHALLENGE PLACEMENT OF DONALD J. TRUMP ON THE 2024 PRIMARY AND GENERAL ELECTION BALLOTS

41. During his campaign, Trump stated that fraudulent voting activity would be the only possible reason for electoral defeat (rather than not receiving enough votes). For example:

a. On August 17, 2020, Trump spoke to a crowd in Oshkosh, Wisconsin and stated: "The only way we're going to lose this election is if the election is rigged."

"he shall take care that the laws be faithfully executed," Article 2

HOGG'S WEST VIRGINIA CODE ANNOTATED SUPPLAMENT 1918

Meaning of word "shall" -- Generally the word "shall"

when used in constitutions leaves no way open for the substitution of discretion, Baer v. Gore (W.Va. 90 S.E. 530

*3 U.S. Code § 15 - Counting electoral votes in Congress
he did not obey the "take care" clause on Jan 6*

QUITE to the contrary he incited insurrection to prevent the execution of a U.S. Statute

Pennsylvania. April 29, 1800.

9FED.CAS.—60 CASE OF FRIES. [Whart. St. Tr. 610.]

TREASON AGAINST UNITED STATES DEFINED—INSURRECTION TO RESIST

EXECUTION OF A LAW—INTENT—NUMBERS ENGAGED—PRINCIPAL AND ACCESSORY.

[1. An insurrection or rising of any body of the people to resist, or to prevent by force or violence, the execution of any statute of the United States for levying or collecting taxes, duties, imposts, or excises, or for calling forth the militia to execute the laws of the Union, or for any other object of a general nature or national concern, under any pretence, as that the statute is unjust, burthensome, oppressive, or unconstitutional, is "levying war" against the United States within the contemplation and construction of the constitution.] by *Justice Chase Founding Father Signer of the Declaration*

U.S. Supreme Court MYERS v. UNITED STATES, 272 U.S. 52 (1926) 272 U.S. 52

This court has repeatedly laid down the principle that a contemporaneous legislative exposition of the Constitution, when the founders of our government and framers of our Constitution were

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actively participating in public affairs, acquiesced in for a long term of years, fixes the construction to be given its provisions. Stuart v. Laird, 1 Cranch, 299, 309; Martin v. Hunter's Lessee, 1 Wheat. 304, 351; Cohen v. Virginia, 6 Wheat. 264, 420; Prigg v. Pennsylvania, 16 Pet. 544, 621 (10 L. Ed. 1060); Cooley v. Board of Wardens, etc., 12 How. 299, 315; Burrow-Giles Lithographing Company v. Sarony, 111 U.S. 53, 57, 4 S. Ct. 279; Ames v. Kansas, 111 U.S. 449, 463-469, 4 S. Ct. 437; The Laura, 114 U.S. 411, 416, 5 S. Ct. 881; Wisconsin v. Pelican Ins. Co., 127 U.S. 265, 297, 8 S. Ct. 1370; McPherson v. Blacker, 146 U.S. 1, 28, 33 S., 35, 13 S. Ct. 3; Knowlton v. Moore, 178 U.S. 41, 56, 20 S. Ct. 747; Fairbank v. United States, 181 U.S. 283, 308, 21 S. Ct. 648; Ex parte Grossman, 267 U.S. 87, 118, 45 S. Ct. 332, 38 A. L. R. 131.

SCOTUS Justice Chase was one of the “founders of our government and framers of our Constitution were actively participating in public affairs”

1FED.CAS.—2 GRIFFIN'S CASE. [Chase, 364; 2 Am. Law T. Rep. U. S. Cts. 93; 8 Am. Law Reg. (N. S.) 358; 25 Tex. Supp. 623; 2 Bait. Law Trans. 433; 3 Am. Law Rev. 784.] Circuit Court, D. Virginia. May Term, 1869.

Next in the order of legislation by congress is the act of February 5, 1867, under which this proceeding is brought, and this act like its predecessors, is sui generis[of its own kind], and expressly framed for the emergency that called it forth. What was that emergency? And what the proper scope and purpose of this act? Blackstone lays down the rule for the interpretation of statutes in his Commentaries (volume 1, marg. pp. 50–60) as follows: “*We must consider the cause that moved the legislature to enact the law. The fairest and most rational method of devising the will of the legislator is, by exploring his intentions at the time when the law was made by signs the most natural and probable, and these signs are either the words, the context, the subject matter, the effect and consequences, 11 or the spirit and reason of the law.*” The same rule is laid down by the United States Supreme Court in Ex parte Milligan, 4 Wall. [71 U. S.] 114. They say—“*In interpreting a law the motives which must have operated with the legislature in passing it are proper to be considered.*” With this rule for our authority, let us glance at the condition of the country, at the date of the passage of this act (Feb. 5, 1867), and there from seek for the motives of congress in passing it.

1FED.CAS.—2 GRIFFIN'S CASE.

SLACUM v. SIMMS AND WISE: MARSHALL, Ch. J. delivered the opinion of the court
It cannot be doubted that if there had been a combination between the surety of the insolvent and the magistrate to grant the discharge, such surety could never plead that discharge in bar of this action. Such would have been the law if Peter Wise the surety had been a different person from Peter Wise the magistrate. But being the same Person, he is clearly incompetent. He is directly interested, and his interest appears upon the record.

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in paraphrase

Such would have been the law if Donald Trump the Candidate had been a different person from Donald Trump the President. But being the same Person, he is clearly incompetent. He is directly interested, and his interest appears upon the record.

The court will note there is no command in the Constitution for any person holding the OFFICE OF PRESIDENT to campaign or run for re-election, nor for same to hold a “rally” [to bring or come together for a common purpose. rallied to the cause. to muster for a common purpose Merriam-Webster] those actions are done in a personal or individual capacities.

SIMMS AND WISE cont,

It is expressly found that Wise did not participate in the fraud which Simms contemplated by his deed. He never acted under the deed as a trustee. His only knowledge of the fact was in his capacity of magistrate. *As a magistrate he had no discretion; he was bound to grant the warrant of discharge upon the debtor's taking the oath, and delivering the schedule.*

Again, “he had no discretion; he was bound to” obey the “take care” clause on Jan 6 and he was bound to uphold 3 U.S. Code § 15 - Counting electoral votes in Congress

SIMMS AND WISE cont,

All the authorities cited in Comyns' Digest confine the incompetence to cases where the judge is *a party* upon record.

If a legal proceeding of this kind may be vacated at any subsequent time, by showing a remote collateral interest in the magistrate, there can be no security for property. The distinction is between a direct interest as party, and a consequential interest. *Hard. 503. Brooks v. Earl of Rivers. 12 Co. 114. Earl of Darby's case. Dyer, 220. a. Sir N. Bacon's case. 1 Leon. 184. Cro. Eliz. 717. Errish v. Reeves. 8 Co. 118. Bonham's case. Co. Litt. 141. 4 Com. Dig. tit. Justices, I. T. 1 Salk. 398. 12 Mod. 587. 2 Salk. 425. Queen v. Rodgers. 2 Salk. 607. Sty. 137. Smith v. Hancock. Sty. 209.*

GRiffin'S CASE Circuit Court, D. Virginia, May Term, 1869

12. Legislation by congress was necessary to give effect to the prohibition by providing for such removal.

This statement is necessary for a full understanding of the pregnancy of the chief justice's statement that the supreme court agreed with him as to the decision he rendered in this case. *In consequence of the failure to oust the state officers disfranchised under the fourteenth amendment by these and similar judicial proceedings, congress in February, 1869, passed a joint resolution directing that all such officers should be removed by the military commanders of military districts into which the late Confederate States had been divided.*

I respectfully submit to the court the following propositions as applicable to this case, and as well

founded in law: I. That the fourteenth article of the amendment acts *proprio vigore.*

[something has the ability to do something on its own, without needing any help or outside force] and without the aid of additional legislation to carry it into effect. II. That it is binding upon all courts, both state and national, and that every United States judge is required by his oath of office to take cognizance thereof.

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That the chief justice's statement, *proprio vigore*, *sui generis* & Legislation by congress was necessary, shows JUDICIAL POWER OF SUA SPONTE was not used and such failure was a violation of Article clause 3 oath of all judicial officers, both of the United States and of the several states to uphold Section 3 of the 14th.

CASE OF FRIES. [Whart. St. Tr. 610.] TREASON AGAINST UNITED STATES DEFINED—INSURRECTION TO RESIST EXECUTION OF A LAW—INTENT—NUMBERS ENGAGED—PRINCIPAL AND ACCESSORY.

[1. An insurrection or rising of any body of the people to resist, or to prevent by force or violence, the execution of any statute of the United States for levying or collecting taxes, duties, imposts, or excises, or for calling forth the militia to execute the laws of the Union, or for any other object of a general nature or national concern, under any pretence, as that the statute is unjust, burthensome, oppressive, or unconstitutional, is “levying war” against the United States within the contemplation and construction of the constitution.]

[2. The assembling of bodies of men, armed and arrayed in a warlike manner, for purposes only of a private nature, is not treason, although the judges or other peace officers should be insulted or resisted, or even great outrages committed to the persons or property of citizens.]

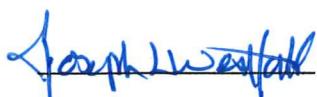
[3. The true criterion is the intention with which the people assembled. When the intention is universal general, as to effect some object of a general public nature, it will be treason, and cannot be considered, construed, or reduced to riot. On the other hand, the commission of any number of felonies, riots, or misdemeanors cannot alter their nature so as to make them amount to treason.]

[4. If a body of people conspire and meditate an insurrection to resist or oppose the execution of any statute of the United States by force, they are only guilty of a high misdemeanor; but if they proceed to carry such intention into execution by force, they are guilty of the treason of levying war, and the quantum of force employed neither lessens nor increases the crime; whether by 100 or 1,000 persons is wholly immaterial.]

[5. There are no accessories to the crime of treason; but all the particeps criminis are principals. All persons present, aiding, assisting, or abetting any treasonable act, or who are present, countenancing, and are ready to afford assistance, if necessary, to those committing a treasonable act, are principals.]

[6. If a man joins and acts with an assembly of people, his intent is always to be considered and adjudged to be the same as theirs; and the law judges of the intent by the fact.]

by *Justice Chase Founding Father Signer of the Declaration*

 11-5-23

Joseph L Westfall Pro Se (H.S. Graduate)

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2023

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